

specialist works with a doctor of medicine or osteopathy to deliver health care services. The services are delivered within the scope of the nurse's professional expertise, with medical direction and appropriate supervision as provided for in guidelines jointly developed by the nurse and the physician or other mechanisms defined by Federal regulations and the law of the State in which the services are performed.

(f) *Recertification requirement fulfilled by utilization review.* A SNF may substitute utilization review of extended stay cases for the second and subsequent recertifications, if it includes this procedure in its utilization review plan.

(g) *Description of procedures.* The SNF must have available on file a written description that specifies the certification and recertification time schedule and indicates whether utilization review is used as an alternative to the second and subsequent recertifications.

[53 FR 6634, Mar. 2, 1988, as amended at 54 FR 37275, Sept. 7, 1989; 58 FR 30671, May 26, 1993; 60 FR 38272, July 26, 1995; 62 FR 46037, Aug. 29, 1997; 63 FR 26311, May 12, 1998; 63 FR 53307, Oct. 5, 1998]

§ 424.22 Requirements for home health services.

Medicare Part A or Part B pays for home health services only if a physician certifies and recertifies the content specified in paragraphs (a)(1) and (b)(2) of this section, as appropriate.

(a) *Certification*—(1) *Content of certification.* As a condition for payment of home health services under Medicare Part A or Medicare Part B, a physician must certify as follows:

(i) The individual needs or needed intermittent skilled nursing care, or physical or speech therapy, or (for the period from July through November 30, 1981) occupational therapy.

(ii) Home health services were required because the individual was confined to the home except when receiving outpatient services.

(iii) A plan for furnishing the services has been established and is periodically reviewed by a physician who is a doctor of medicine, osteopathy, or podiatric medicine, and who is not precluded from performing this function under paragraph (d) of this section. (A doctor

of podiatric medicine may perform only plan of treatment functions that are consistent with the functions he or she is authorized to perform under State law.)

(iv) The services were furnished while the individual was under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine.¹

(2) *Timing and signature.* The certification of need for home health services must be obtained at the time the plan of treatment is established or as soon thereafter as possible and must be signed by the physician who establishes the plan.

(b) *Recertification.* (1) *Timing and signature of recertification.* Recertification is required at least every 2 months, preferably at the time the plan is reviewed, and must be signed by the physician who reviews the plan.

(2) *Content and basis of recertification.* The recertification statement must indicate the continuing need for services and estimate how much longer the services will be required. Need for occupational therapy may be the basis for continuing services that were initiated because the individual needed skilled nursing care or physical or speech therapy.

(c) [Reserved]

(d) *Limitations on the performance of certification and plan of treatment functions.* (1) *Basic rule.* Beginning November 26, 1982, and except as provided in paragraph (e) of this section, need for home health services to be provided by an HHA may not be certified or recertified, and a plan of treatment may not be established and reviewed, by any physician who has a significant ownership interest in, or a significant financial or contractual relationship with, that HHA.

(2) *Significant ownership interest.* A physician is considered to have a significant ownership interest in an HHA if he or she—

(i) Has a direct or indirect ownership interest of 5 percent or more in the

¹As a condition of Medicare Part A payment for home health services furnished before July 1981, the physician was also required to certify that the services were needed for a condition for which the individual had received inpatient hospital or SNF services.

capital, the stock, or the profits of the home health agency; or

(ii) Has an ownership interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation that is secured by the agency, if that interest equals 5 percent or more of the agency's assets.

(3) *Significant financial or contractual relationship.* Beginning November 26, 1982, a physician is considered to have a significant financial or contractual relationship with an HHA if he or she—

(i) Receives any compensation as an officer or director of the HHA; or

(ii) Has direct or indirect business transactions with the HHA that, in any fiscal year, amount to more than \$25,000 or 5 percent of the agency's total operating expenses, whichever is less. Business transactions means contracts, agreements, purchase orders, or leases to obtain services, supplies, equipment, and space and, after August 29, 1986, salaried employment.

(4) *Exemption of uncompensated officer or director.* A physician who serves as an uncompensated officer or director of an HHA is not precluded from performing physician certification and plan of treatment functions for that HHA.

(e) *Exceptions to limitations.* (1) *Exceptions for governmental entities.* The limitations of paragraph (d) of this section do not apply to an HHA that is operated by a Federal, State, or local governmental authority.

(2) *Exception for sole community HHAs.* The limitations of paragraph (d) of this section do not apply on or after the date on which the HHA is classified as a sole community HHA in accordance with paragraphs (f) and (g) of this section.

(f) *Procedures for classification as a sole community HHA.* (1) The HHA must submit to its intermediary a request for classification, showing that it meets the conditions of paragraph (g) of this section.

(2) The intermediary reviews the request and sends the request, with its recommendations, to HCFA.

(3) HCFA reviews the request and the intermediary's recommendation and forwards its approval or disapproval to the intermediary

(4) An approved classification as sole community HHA remains in effect without need for reapproval unless there is a change in the circumstances under which the classification was approved.

(g) *Basis for classification as a sole community HHA.* HCFA approves a classification as a sole community HHA only if the HHA designates a particular area and shows that no other HHA provides services within that area.

[53 FR 6638, Mar. 2, 1988; 53 FR 12945, Apr. 20, 1988; 56 FR 8845, Mar. 1, 1991]

§ 424.24 Requirements for medical and other health services furnished by providers under Medicare Part B.

(a) *Exempted services.* Certification is not required for the following: (1) Hospital services and supplies incident to physicians' services furnished to outpatients. The exemption applies to drugs and biologicals that cannot be self-administered, but not to partial hospitalization services, as set forth in paragraph (e) of this section.

(2) Outpatient hospital diagnostic services, including necessary drugs and biologicals, ordinarily furnished or arranged for by a hospital for the purpose of diagnostic study.

(b) *General rule.* Medicare Part B pays for medical and other health services furnished by providers (and not exempted under paragraph (a) of this section) only if a physician certifies the content specified in paragraph (c)(1), (c)(4) or (e)(1) of this section, as appropriate.

(c) *Outpatient physical therapy and speech-language pathology services—*(1) *Content of certification.* (i) The individual needs, or needed, physical therapy or speech pathology services.

(ii) The services were furnished while the individual was under the care of a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

(iii) The services were furnished under a plan of treatment that meets the requirements of § 410.61 of this chapter.

(2) *Timing.* The certification statement must be obtained at the time the plan of treatment is established, or as soon thereafter as possible.

(3) *Signature.* (i) If the plan of treatment is established by a physician,